IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

WP(C).No. 2739 of 2006(A)

PETITIONER:

M/S.AKHIL CHEM INDUSTRIES,
I D A INDUSTRIES, ERUMATHALA.P.O,
REPRESENTED BY ITS PROPRIETOR T.X.MARTIN,
S/O.LATE XAVIER AGED 38, THERULLY HOUSE,
ASOKAPURAM.P.O, PIN-683 501.

BY ADV. SRI.S.SREEKUMAR

RESPONDENTS:

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1. STATE OF KERALA,
REP. BY ITS SECRETARY (INDUSTRIES DEPT.),
GOVT. SECRETARIAT, TRIVANDRUM.

2. GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE,
ERNAKULAM.

BY GOVERNMENT PLEADER SRI.M.R.SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/07/2007, THE COURT ON 19/07/2007 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF PROCEEDINGS NO.B2/12291/96 DTD 4.8.2003 BY THE 2ND RESPONDENT.

EXT.P2: COPY OF DOCUMENT NO.527/04 DTD 15.12.2003.

EXT.P3; COPY OF RECIEPT DATED 17.3.2004 FOR PAYMENT OF LICENCE FEES ISSUED BY EDATHALA GRAMA PANCHAYATH.

EXT.P4: COPY OF THE ORDER IN B.A.NO.6454/05 DTD 8.11.05 OF HON'BLE HIGH COURT OF KERALA.

EXT.P5: COPY OF WRITTEN EXPLANATION DATED 18.11.2005 OF THE PETITIONER.

EXT.P6: COPY OF PROCEEDINGS NO.B2/12291/93 DTD 9.1.2006 OF THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS:

EXT.R2(a): COPY OF THE NEWS ITEM PUBLISHED IN DESHBHIMANI DAILY DTD 1.10.05.

EXT.R2(b): COPY OF THE NEWS ITEM PUBLISHED IN MATHRUBHUMI DAILY DTD 1.10.05.

EXT.R2(c): COPY OF THE SHOW CAUSE NOTICE NO,B2.2291/96 DTD 3.10.2005 ISSUED TO THE WRIT PETITIONER.

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// TRUE COPY//

P.A. TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)NO. 2739 OF 2006

DATED THIS THE 19th DAY OF JULY, 2007

JUDGMENT

The petitioner was allotted a plot of land in the industrial development area, Aluva for starting an industrial unit. A hire purchase agreement was executed remitting 20% of the land value. The balance was to be paid within ten years in equal instalments. The petitioner constructed buildings thereon for starting the industrial units. However, the unit was not started which according to the petitioner is on account of delay in obtaining loan for purchase of machinery. Subsequently, on allegation that illicit spirit was seized from the building constructed by the petitioner in the industrial area and also on the ground that the petitioner has not used the alloted plot for the purpose for which it was allotted, the 2nd respondent cancelled the allotment by Ext.P6 order. Ext.P6 order is under challenge in this writ petition.

2. A counter affidavit has been filed in support of Ext.P6. In the counter affidavit, it is specifically stated that in reply to the show cause notice submitted by the petitioner, he had specifically admitted that he had not started the unit in the allotted land although building was constructed. He also did not produce any evidence to show that

he had taken any steps for procurement of the plant and machinery. In the meantime, a news item appeared in the newspaper on 1.10.2005 to the effect that the illicit spirit was seized from the premises allotted to the petitioner. Exts.R2(a) and R2(b) are the press reports in this regard. On enquiry, this was confirmed also. It is under the above circumstances that Ext.P6 order was issued after affording an opportunity of being heard to the petitioner.

After hearing, I do not find any merit in the writ petition. The petitioner has not been able to satisfy me that he had taken earnest efforts to start the industry for which the land was alloted to the petitioner. He could not also disprove with any satisfactory material as to how illicit spirit happened to be stored in the premises without the petitioner's knowledge. That being so, I do not find any merit in this writ petition and according the same is dismissed.

S. SIRI JAGAN, JUDGE

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